

REMARKS

Claims 1, 3-12, 14, 15 and 18-38 are pending in this application. By this amendment, Applicant has amended claim 1 and added new claim 39.

Reconsideration of the above-identified application in view of the foregoing amendments and the following remarks is respectfully requested.

Procedural History:

In a final Office Action mailed on January 4, 2007 (hereinafter “the final Office Action”), all pending claims were rejected, as follows:

Claims 1, 3, 11, 13, 18, 19, 21, 22 and 24-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan in view of U.S. Patent No. 5,959,687 to Dinwiddie (“Dinwiddie”).¹

Claims 5 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Hines et al.

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Bell.

Claims 4, 7, 14, 15, 20, 23 and 34-38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Yu et al.

Claims 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan in view of Hines et al.

Claims 1, 11, 24, 29 and 35-38 are drafted in independent form.

In response to the final Office Action, Applicant filed a Response and Request for Reconsideration on March 22, 2007 (hereinafter “the Response”). In the Response, Applicant explained the differences between the claimed invention and the Dan and Dinwiddie references

¹ Claim 13, however, was canceled in Applicant's prior amendment filed July 6, 2006.

together with the lack of motivation on the present record to combine those references to reject the claims. Applicant also requested clarification of various aspects of the rejections.

In an Advisory Action mailed on April 23, 2007, the Examiner maintained the rejections, as follows:

The request for reconsideration has been considered but ... does NOT place the application in condition for allowance because: In response to Applicant's argument (pages 11 and 12) that Dinwiddie does not disclose "at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion". The Examiner respectfully disagrees because Dinwiddie discloses that signal data in includes a "header" portion that identifies the content of the non-header, or "payload", portion of the packet. For example, the header may indicate that a packet includes video data (claimed image data) for programming on channel 5) (see col. 8, line 45 through col. 9, line 4). For the other arguments, Applicant is kindly suggested to refer to the final office action.

In a telephone call with the Examiner on June 4, 2007, Applicant's representative explained that the final Office Action was deficient for at least the reasons asserted in the Response and that the Advisory Action did not address all of the issues raised in the Response. During the call, the Examiner agreed to withdraw the finality of the Office Action based on, among other things, the lack of motivation on the present record to combine Dan and Dinwiddie to reject the pending claims. In addition, the Examiner requested Applicant to file a supplemental paper in response to the Advisory Action, to outline the deficiencies in the final Office Action discussed during the call. This Supplemental Amendment and Request for Reconsideration is in response to the Examiner's request. Nevertheless, the Examiner is respectfully requested to fully consider the Response, in which Applicant's arguments in support of allowance are more fully addressed. In addition, the undersigned wishes to take this opportunity to thank the Examiner for the courtesies extended during the call.

Issues Discussed During June 4, 2007 Call:

1) Both the final Office Action and the Advisory Action rely on the “identifier” in a packet header of Dinwiddie for the claimed feature of “said at least a portion of the image data is transmitted in the header portion”. Applicant respectfully submits that the identifier of Dinwiddie is not “image data” for at least the reason that it is not “for display on a display associated with the receiving device during the ongoing packet transfer”, as explicitly required by claim 1. (See, Response, p. 10, line 18 to p. 12, line 2) In addition, claim 1 is being amended herein at the Examiner’s suggestion to recite “said at least a portion of the image data for display on a display associated with the receiving device during said ongoing packet transfer” to further emphasize that “said at least a portion of the image data” that is transmitted in the header portion is data that is “for display on a display”.

2) The final Office Action does not provide any motivation to combine Dan and Dinwiddie in support of the rejection of independent claims 1, 11, 24, 29 and 35-38, as evidenced by, among other things, the Examiner’s incomplete sentence in the final Office Action on the issue of motivation to combine. (See Response, p. 12, line 3-16 and p. 13, lines 8- 11; final Office Action, p. 4, lines 9-13).

3) In rejecting independent claim 11, the final Office Action provides that “HTTP protocol allow display of downloaded objects prior to completion of the page transfer, or in other words, during packet transfers” (final Office Action, p. 3, lines 9-11), apparently for the feature in claim 11 of “displaying at least a portion of said image data on said receiving device during said ongoing file transfer”. Applicant respectfully submits that this statement is improper since it is unsupported, and thus, at the very least, does not enable Applicant to determine whether what the Examiner is describing qualifies as “prior art”, nor does the Examiner’s statement specify

whether the “objects” referred to therein are “image data”, as required by claim 11. Independent claims 1, 24, 29 and 35-38 include similar features for which the Examiner apparently relies on the foregoing unsupported statement about the HTTP protocol. (See Response, p. 13, line 13 to p. 14, line 9)

4) In the final Office Action, independent claims 11, 24, 29 and 35-38 were rejected over Dan in view of Dinwiddie. The final Office Action relies on Dinwiddie only for the feature of “at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion”. However, that feature is not recited in any of the foregoing independent claims. Accordingly, clarification is requested as to whether these claims are being rejected over the combination of Dan and Dinwiddie or rejected over Dan alone. (See Response, p. 13, lines 1-9)

5) Dependent claims 18, 19, 22, 27, 28, 32 and 33 were rejected in both the final Office Action and the two immediately prior Office Actions as being obvious over Dan on grounds that:

“It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that the displayed image fits in the page that displays the image.”

“It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that in lieu of text data, the image data is displayed.”

(Final Office Action, p. 5)

In its response to the two prior Office Actions, Applicant requested that, should the Examiner persist in the foregoing rejections, he provide evidence in support of these rejections. In the final Office Action, however, the rejections were repeated without any further

elaboration. Evidence in support of the rejections (e.g., prior art showing “IMG src = “filename” width=y height =y> tag of HTML”and “IMG src = “filename” ALT = “content data> tag of HTML”) is again respectfully requested. (See, Response, p. 14, lines 10-26) In addition, the rejections merely set forth how to allegedly accomplish the claimed subject matter through programming, rather than the motivation for doing so. Applicant respectfully submits that this constitutes an impermissible hindsight reconstruction of the claimed invention.

New Claims:

Applicant has added new claim 39, which depends from amended claim 1. Support for this claim may be found at, e.g., page 7, lines 11-14 of the instant application.

In view of the foregoing, Applicant respectfully requests either that the instant application be allowed or that the above-identified issues be clearly addressed in the next Office Action.

* * *

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance, and an early and favorable examination on the merits is respectfully requested.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required by this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4066.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4066.

Respectfully submitted,
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